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October 16, 2015

BY ECF

Honorable John G. Koeltl
United States District Judge
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: William Pauling, et ano. v. City of New York, et al.
15 Civ. 7816 (JGK)

Your Honor:

I am an Assistant Unit Chief in the Special State Law Enforcement Defense Unit of the New York City Law Department and I write on behalf of defendants City of New York (hereinafter “City”), Nicholas Novak and Davon Alston. As set forth herein, defendants respectfully request that this action be remanded back to New York Supreme Court where it was originally filed in Bronx County under index number 24865/2015. This request does not affect any other deadlines in this matter and is made jointly pursuant to stipulation, annexed hereto as Exhibit A.

As the Court may be aware, on October 2, 2015, the City of New York removed this civil rights action to United States District Court pursuant to 28 U.S.C. § 1331 as it alleged causes of action arising under the laws of the United States. (See Docket Entry No. 1.) Specifically, plaintiff claimed a deprivation of his constitutional rights as guaranteed under 42 U.S.C. §§ 1983 and 1988. (Id. at Ex. A.) Thereafter, by stipulation, plaintiffs withdrew and discontinued all federal causes of action with prejudice. (See Ex. A.)

A federal court may exercise jurisdiction only if Congress has passed a statute granting it such jurisdiction. 28 U.S.C. § 1331. If at any time before final judgment it appears that the district court lacks subject matter jurisdiction, the case shall be remanded. 28 U.S.C. § 1447(c). Here, now that all federal claims have been withdrawn and discontinued with prejudice, remand of this action back to New York Supreme Court Bronx County is appropriate for lack of federal subject matter jurisdiction.

Accordingly, the parties respectfully request that this action be remanded and the federal docket be closed, together with any such further relief as this Court deems just and proper.

Thank you for your consideration of the application herein.

Respectfully submitted,

/s/

Steven M. Silverberg
Assistant Unit Chief
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cc: BY MAIL
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